

AMENDED IN SENATE APRIL 12, 2005

AMENDED IN SENATE MARCH 31, 2005

SENATE BILL

No. 504

Introduced by Senator Alquist

February 18, 2005

An act to add Section 11713.18 to the Vehicle Code, relating to dealers.

LEGISLATIVE COUNSEL'S DIGEST

SB 504, as amended, Alquist. Vehicles: dealerships: identity theft.

(1) Existing law generally regulates motor vehicle dealerships.

This bill would prohibit a motor vehicle dealer licensed under the Vehicle Code from selling or leasing a vehicle *through the purchaser's or lessee's use of a credit card or long-term financing* without having first obtained the right thumbprint of the purchaser or lessee, except as provided, and a photocopy of his or her valid form of identification. The bill would impose various conforming requirements upon vehicle dealers. The bill would authorize a peace officer to inspect ~~or copy~~ *and seize a thumbprint or a fingerprint card* obtained by a dealer under these provisions ~~and utilize it pursuant to an investigation of an identity theft or vehicle theft if the officer is acting within the scope of his or her authority in response to a search warrant, as specified.~~

Because a violation of these requirements and prohibitions would be a misdemeanor under other provisions of existing law, the bill would impose a state-mandated local program by creating new crimes.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Identity and Automobile Theft Prevention Act.

3 SEC. 2. Section 11713.18 is added to the Vehicle Code, to
4 read:

5 11713.18. (a) A dealer issued a license under this article shall
6 not sell or lease a vehicle *through the purchaser's or lessee's use*
7 *of a credit card or long-term financing* without first having
8 obtained both of the following documents from the purchaser or
9 lessee:

10 (1) A fingerprint card containing a print of the purchaser's or
11 lessee's right thumb, unless the purchaser or lessee has a
12 disfigured right thumb, in which case the dealer shall obtain a
13 print of the left thumb or any available finger. If the purchaser or
14 lessee is physically unable to provide a thumbprint or fingerprint,
15 the dealer or his or her authorized representative shall so indicate
16 on the fingerprint card and shall also provide an explanation of
17 the purchaser's or lessee's physical condition.

18 (2) A photocopy of a valid form of identification for the
19 purchaser or lessee.

20 (b) (1) A thumbprint or fingerprint required to be taken under
21 this section may be taken only by a person licensed under this
22 article or Article 2 (commencing with Section 11800).

23 (2) The person taking the thumbprint or fingerprint shall be
24 clearly identified by name on the fingerprint card.

25 (c) (1) The dealer shall maintain the fingerprint card for seven
26 years, or for the duration of any conditional sales contract,
27 whichever period is longer, and then shall destroy the card.

28 (2) If the vehicle is sold pursuant to a conditional sales
29 contract, the dealer shall maintain the fingerprint card with the
30 documents required to be kept under Section 2984.5 of the Civil
31 Code.

(d) (1) The dealer shall store all documents required to be obtained from a purchaser or lessee under this section in an area that is not accessible by the public.

(2) In storing the documents, the dealer shall comply with all applicable provisions of Federal Trade Commission's Safeguards Rule, as set forth in Part 314 (commencing with Section 314.1) of Title 16 of the Code of Federal Regulations.

~~(e) During business hours pursuant to an investigation of a crime relating to identity theft or vehicle theft, a peace officer may inspect or copy a fingerprint card obtained by a dealer under this section. The peace officer may retain the original fingerprint or thumbprint as evidence in a criminal investigation.~~

(e) The thumbprint or fingerprint, or any image of the thumbprint or fingerprint, taken pursuant to this section shall not be placed in a database.

(f) (1) The dealer shall allow inspection or seizure of the thumbprint or fingerprint only by a peace officer acting within the scope of his or her authority in response to a criminal search warrant signed by a magistrate and served on the dealer by the peace officer.

(2) Probable cause for the issuance of the warrant shall be based on identity theft or vehicle theft specifically involving the transaction for which the thumbprint or fingerprint was given.

(g) The fingerprint card shall include a statement informing the purchaser or lessee that state law prohibits a vehicle sales or lease transaction from being finalized until the purchaser or lessee has provided a thumbprint or fingerprint in compliance with this section and that state law may require the thumbprint or fingerprint to be made available to law enforcement for the purposes of investigating vehicle theft or identity theft cases.

~~(g)~~

(h) The dealer may not finalize a sales or lease transaction until the purchaser or lessee has provided a thumbprint or fingerprint and a copy of his or her valid identification form, as required under this section.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the

1 penalty for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition of a
3 crime within the meaning of Section 6 of Article XIII B of the
4 California Constitution.

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